

**United States Department of the Interior
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
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Telephone: (602) 242-0210 FAX: (602) 242-2513**

AESO/FA

May 5, 2003

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 760
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

Thank you for Public Notice 99-4-003600-SDM (PN) dated April 21, 2003. W.M. Grace Development Company has submitted an application for a Section 404 Clean Water Act (CWA) permit to construct the 90-acre retail commercial facility known as Frontier Village on Yavapai-Prescott Indian tribal land near Prescott, Yavapai County, Arizona (Sections 35 & 36; T14N, R2W). These comments are provided under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review of the permit application under the FWCA.

The proposed project involves construction of parking lots, buildings, and roads. Approximately 1.04 acres of wetlands and 0.36 acre of waters of the U.S. would be graded and filled. We believe the total impact of the 90-acre development which would be authorized by your agency should be assessed, including indirect and cumulative effects and interrelated and interdependent activities, particularly those that occur in upland areas above the ordinary high water mark. The PN states that a preliminary determination has been made that an environmental impact statement is not required for the proposed work. As such, we assume that your agency is preparing an environmental assessment (EA) in accordance with the National Environmental Policy Act. We request that a copy of the draft EA be submitted to our office to assist in our assessment of the project.

The PN states that mitigation would consist of creation and enhancement of two acres of special aquatic site of similar function and plant species composition in the floodplain of nearby Granite Creek. In accordance with existing regulations and procedures, mitigation measures should first address avoidance and minimization, and lastly compensation. For compensation, mitigation and monitoring measures should be based on a thorough impact analysis that addresses the totality of unavoidable project-related impacts to wetlands and waters. The mitigation plan should be developed in coordination with other appropriate resource agencies. We request the mitigation plan be submitted to our office for review prior to finalization and acceptance.

The PN indicates that springs on the project site would be diverted. Springs and other isolated waters within the southwestern United States are known for their propensity to harbor rare and sensitive endemic aquatic invertebrates such as springsnails, riffle beetles, and amphipods. These sites should be thoroughly assessed to ensure that modifications will not result in the extirpation of localized populations of described or undescribed endemic aquatic invertebrates. Accordingly, we request the opportunity to review any project-related analysis that reflects the consideration of this issue.

The 404(q) Memorandum of Agreement Between the Department of the Interior and the Department of the Army provides for cooperation in acquiring and conveying project information needed by either agency to fulfill its permit review responsibilities. At this time we believe we have not been provided adequate project information to allow us to prepare substantive project-specific comments. Therefore, we request that the permit not be issued until we have had an opportunity to review the draft EA, mitigation plan, and other pertinent project-related documents, and provide our review in accordance with the FWCA and CWA.

If we can be of further assistance please contact Mike Martinez (x224) or Don Metz (x217).

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Supervisor, Project Evaluation Programs, Arizona Game and Fish Department, Phoenix, AZ